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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-ninth session

SUMMARY RECORD OF THE 1183rd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 22 August 1996, at 3 p.m.

Chairman: Mr. BANTON

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GE.96-18065 (E)

The meeting was called to order at 3.05 p.m.

REPORT OF THE COMMITTEE TO THE GENERAL ASSEMBLY AT ITS FIFTH-FIRST SESSION UNDER ARTICLE 9, PARAGRAPH 2, OF THE CONVENTION (agenda item 9) (CERD/C/49/CRP.1 and Add.2 to 7, 9 to 12, 14, 16 to 26, 28, 29, 32 to 34, 35/Rev.1 and 36; CRP.2 and Add.1 to 7; CERD/C/49/Misc.32/Rev.1 and Misc.35/Rev.1)

1. The CHAIRMAN explained that, as the Committee was not in possession of all the documents that would constitute its report to the General Assembly, he invited participants first of all to adopt those documents which should not give rise to substantive discussion and then to consider the others at greater length.

Document CERD/C/49/CRP.1/Add.2 - Chapter II: Prevention of racial discrimination, including early warning and urgent procedures (Bosnia and Herzegovina, the Federal Republic of Yugoslavia (Serbia and Montenegro), Rwanda)

2. Mr. CHIGOVERA (Rapporteur) said that paragraph 7, which would become paragraph 1 of document CRP.1/Add.3, should be deleted.

3. Document CERD/C/CRP.1/Add.3, as amended, was adopted.

Document CERD/C/49/CRP.1/Add.5 - Chapter IV: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Colombia, Denmark, Zimbabwe, Hungary, Russian Federation, Madagascar, Finland, Spain, United Kingdom of Great Britain and Northern Ireland, Guinea, Gambia and Côte d'Ivoire)

4. Mr. CHIGOVERA (Rapporteur) said that the figure 38 in the first paragraph should be replaced by 32, and that the list of country rapporteurs was contained in annex VII and not annex VI.

5. Document CERD/C/49/CRP.1/Add.5, as amended, was adopted.

6. Documents CERD/C/49/CRP.1/Add.6 and 7 - Chapter IV: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Bolivia and Brazil)

6. Documents CERD/C/49/CRP.1/Add.6 and 7 were adopted.

Document CERD/C/49/CRP.1/Add.9 - Chapter IV: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Republic of Korea)

7. Mr. DIACONU asked the Committee to accede to the request of the representative of the Republic of Korea to add to part C of the conclusions concerning the positive aspects of the situation in that country a paragraph in which the Committee welcomed the delegation's statement that the State party shortly intended to recognize the Committee's competence under

article 14 of the Convention. That would make it easier for the Korean Ministry of Foreign Affairs to convince other ministries of the desirability of that declaration.

8. Document CERD/C/49/CRP.1/Add.9, as amended, was adopted.

Document CERD/C/49/CRP.1/Add.11 - Chapter IV: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Malta)

9. Mr. SHERIFIS requested the amendment of paragraph 16 to reflect the Committee's decision to word that type of recommendation in a uniform manner, specifying that amendments should be ratified as rapidly as possible.

10. Mr. GARVALOV proposed that the decision should be brought to the General Assembly's attention in a footnote stating that that formulation was applicable whenever the conclusions referred to article 8 of the Convention and to the relevant recommendation of the Committee.

11. Document CERD/C/49/CRP.1/Add.9, as amended, was adopted.

Documents CERD/C/49/CRP.1/Add.25, 26 and 28 - Chapter IV: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Venezuela, Namibia and Zaire)

12. Documents CERD/C/49/CRP.1/Add.25, 26 and 28 were adopted.

Document CERD/C/49/CRP.1/Add.29 - Chapter IV: Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (Mauritius)

13. Mr. SHERIFIS pointed out that the words "possibility that" in paragraph 3 of the English text should be replaced by "possibility of".

14. Document CERD/C/49/CRP.1/Add.29, as amended, was adopted.

Document CERD/C/49/CRP.1/Add.32 - Chapter V: Communications

15. The CHAIRMAN recalled that it had been decided at the morning meeting to amend the sentence in square brackets.

16. Document CERD/C/49/CRP.1/Add.32, as amended that morning, was adopted.

Document CERD/C/49/Add.33 - Chapter VI: Consideration of copies of petitions, copies of reports and other information relating to trust and non-self-governing territories and to all other territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention

17. Document CERD/C/49/CRP.1/Add.33 was adopted.

Document CERD/C/49/CRP.1/Add.34 - Chapter VII: action taken by the General Assembly at its fiftieth session

18. Document CERD/C/49/CRP.1/Add.34 was adopted.

Document CERD/C/49/CRP.1/Add.35/Rev.1 - Chapter VIII: Status of submission of reports by States parties under article 9, paragraph 1, of the Convention

19. Mr. CHIGOVERA (Rapporteur) said that, in addition to the countries listed in part A of the document, the Committee had received reports from Belarus and Mexico as well as one by the United Kingdom on Hong Kong. Those documents would subsequently be given symbols.

20. Document CERD/C/49/CRP.1/Add.35/Rev.1, as amended, was adopted.

Document CERD/C/49/CRP.1/Add.36 - Chapter IX: Third decade to combat racism and racial discrimination

21. The CHAIRMAN said that consideration of the document should be supplemented by that of the report prepared on the meeting held between the representatives of the Sub-Commission and those of the Committee; its content was summarized in paragraph 3 of the document before the Committee. He pointed out that subparagraph (a) stated that the meeting had been attended by representatives of the two bodies and not of their bureaux, so that an expert who was no longer a member of one of those bureaux but who had begun the work being carried out could continue to participate.

22. He also drew the Committee's attention to the implementation of the decision taken the previous year to study article 7 and to hold a seminar on the subject and, lastly, to the recommendations made at the meeting of the representatives of the two bodies concerning the priorities to be established in the Revised Programme of Action for the Third Decade.

23. Following a discussion during which the CHAIRMAN, Mr. RECHETOV, Mr. DIACONU and Mr. SHERIFIS expressed divergent views concerning the desirability of having the Committee represented at the joint meetings of bureaux by persons who were no longer members, the CHAIRMAN suggested the addition to the document of a paragraph 4 in which the Committee stated that it would wait until it was better informed of the Sub-Commission's views before taking a decision on the agreement mentioned in paragraph 3.

24. It was s cided.

25. Document CERD/C/49/CRP.1/Add.36, as amended, was adopted.

26. The CHAIRMAN invited the Committee to consider the annexes to its report with a view to their adoption.

Document CERD/C/49/CRP.2 - Annex I: Status of the Convention

27. Mr. CHIGOVERA (Rapporteur) said that the figure 147 given in part A of the document, on the cover page and on page 2 should be replaced by 148, since

Azerbaijan was a new State party to the Convention. Moreover, the figure 22 in the heading of part B should read 23 owing to the addition of Luxembourg.

28. Document CERD/C/49/CRP.2, as amended, was adopted.

Document CERD/C/49/CRP.2/Add.1 - Annex II: Agendas of the forty-eighth and forty-ninth sessions

29. Document CERD/C/49/CRP.2/Add.1 was adopted.

Document CERD/C/49/CRP.2/Add.2 - Annex III: Statement concerning terrorist acts in Israel

30. Document CERD/C/49/CRP.2/Add.2 was adopted.

Document CERD/C/49/CRP.2/Add.3 - Annex IV: Statement by the Committee to the Second United Nations Conference on Human Settlements (HABITAT II)

31. Document CERD/C/49/CRP.2/Add.3 was adopted.

Document CERD/C/49/CRP.2/Add.4 - Annex V: List of documents issued for the forty-eighth and forty-ninth sessions of the Committee

32. Mr. CHIGOVERA (Rapporteur) announced that the secretariat would add to that list the conclusions in respect of the reports of Bolivia, Brazil, People's Republic of China, India, Malta, Mauritius, Republic of Korea, Namibia, Venezuela and Zaire together with their appropriate symbols; there would be no documents bearing the symbols CERD/C/304/Add.20 to 23.

33. Document CERD/C/49/CRP.2/Add.4, as amended, was adopted.

Document CERD/C/49/CRP.2/Add.5 - Annex VI: Documents received by the Committee at its forty-eighth session in conformity with article 15 of the Convention

34. Mr. GARVALOV requested that the name of the Special Committee referred to in the document should be given in full.

35. Document CERD/C/49/CRP.2/Add.5, as amended, was adopted.

Document CERD/C/49/CRP.2/Add.6 - Annex VII: Country Rapporteurs for reports considered by the Committee at its forty-eighth and forty-ninth sessions

36. Mr. CHIGOVERA (Rapporteur) said that the references to the Bahamas, Gabon, Guatemala, Lebanon, Panama and Swaziland on pages 2, 3, 4 and 5 should be deleted and that China should be referred to by its official name, namely, the People's Republic of China. Moreover, on page 5, the Rapporteur for Somalia was not Mr. Aboul-Nasr but Mr. Garvalov.

37. Document CERD/C/49/CRP.2/Add.6, as amended, was adopted.

Document CERD/C/49/CRP.2/Add.7 - Annex VIII: General recommendations adopted by the Commitee

38. Mr. CHIGOVERA (Rapporteur) said that the recommendation concerning refugees, which was at present the subject of addendum 9, would be included in the document.

39. Document CERD/C/49/CRP.2/Add.7, as amended, was adopted.

40. Mr. de GOUTTES congratulated the Chairman on managing to have the Committee's documents adopted so rapidly but noted that it was sometimes difficult for experts who had not received them and whose mother tongue was other than English to keep up.

41. The CHAIRMAN invited the experts to consider the documents likely to raise substantive problems.

Document CERD/C/49/CRP.1 - Chapter I: Organizational and related matters; document CERD/C/49/Misc.32/Rev.1 - Other matters

42. The CHAIRMAN invited the Committee to consider the draft chapter I of the Committee's report (CERD/C/49/CRP.1) together with the document entitled "Other matters" (CERD/C/49/Misc.32/Rev.1), distributed in English only, the four paragraphs of which should be included in part G entitled "Other matters" of chapter I of the report.

Document CERD/C/49/CRP.1 - Organizational and related matters

Paragraphs 1 to 11

43. The CHAIRMAN said that those paragraphs were of a purely formal nature. The secretariat would replace the dots by the appropriate figures.

44. Paragraphs 1 to 11 were adopted.

Paragraph 12

45. Mr. CHIGOVERA (Rapporteur) proposed the deletion of paragraph 12, the text of which was the same as that of paragraph 18 of document CERD/C/49/Misc.32/Rev.1. Subsequent paragraphs would be renumbered accordingly.

46. It was so decided.

47. Paragraph 12, as amended, was adopted.

Paragraph 13

48. Mr. CHIGOVERA (Rapporteur) proposed that paragraph 13 should begin with the words "At its forty-eighth session".

49. Paragraph 13, as amended, was adopted.

Paragraph 14

50. Mr. WOLFRUM pointed out that the Assistant Secretary-General for Human Rights had spoken at two of the Committee's meetings and not only one, as was indicated in the paragraph.

51. The CHAIRMAN said that the secretariat would make the necessary correction.

52. Paragraph 14, as amended, was adopted.

Paragraphs 15 to 17

53. Paragraphs 15 to 17 were adopted.

Paragraph 18

54. Mr. CHIGOVERA (Rapporteur) said that a reference should be made, after the first sentence, to the general recommendation adopted by the Committee at its present session concerning the rights of persons who had become refugees or been displaced because of ethnic considerations.

55. Paragraph 18, as amended, was adopted.

56. Document CERD/C/49/CRP.1, as amended, was adopted.

Document CERD/C/49/Misc.32/Rev.1 - Other matters (distributed at the meeting in English only)

Paragraph 18

57. Mr. GARVALOV said that the name "Odartey" in the third line should be replaced by "Lamptey".

58. Paragraph 18, as amended, was adopted.

Paragraphs 19 to 21

59. The CHAIRMAN requested members of the Committee to correct two errors. In paragraph 19, the word "The" in the fourth line before the word "members" should be replaced by "Other". In paragraph 20, the word "behalf" at the end of the fourth line should be replaced by "belief".

60. Mr. DIACONU said he had no objection to the first two sentences of paragraph 19 which stated facts. The third sentence, on the other hand, appeared to anticipate the opinion of the Committee whereas that was not the case. Specifically, what was meant by the words "to other members of the Committee"?

61. Following the CHAIRMAN's proposed deletion of the words "other members of," Mr. DIACONU suggested the addition of the words "on whatever matters

discussed" after "the Committee". In that way paragraph 19 would cover the consideration of the report of the State party whose expert was a national and the last sentence would be balanced.

62. The penultimate sentence of paragraph 20 stated that the Committee had been unable to meet the wishes of two members. He did not believe that the Committee had taken a decision in the matter, and considered that it could still meet the wishes of those members without compromising the integrity of its conclusions. For example, it could include in the report a short paragraph to the effect that, in connection with the conclusions concerning the People's Republic of China, Mrs. Zou had stated that ... and that in connection with the Committee's conclusions concerning India, Mrs. Sadiq Ali had said that ...", or it might state that a member had entered a reservation if Mrs. Zou and Mrs. Sadiq Ali preferred not to be mentioned by name. That would also respect the integrity of the experts, whose views should be shown consideration.

63. Mr. GARVALOV said it would be preferable to add the words "in the consideration of the reports of the countries from which they come" after the words "the Committee" at the end of paragraph 19. As for paragraph 20, he pointed out that all members of the Committee had the right to make any statement that they considered important, and that right was obviously enjoyed by Mrs. Zou and Mrs. Sadiq Ali. The inclusion of a statement of that nature in the summary record of the meeting at which it was made presented no difficulty. On the other hand, to do so in the report implied that the Committee should recognize that that right was enjoyed by members and, if it did so, it would have to be determined whether the two members of the Committee concerned, namely, Mrs. Zou and Mrs. Sadiq Ali, agreed to the wording of paragraph 20. Another possibility would be to refer to them by name provided, of course, that they agreed.

64. Mr. AHMADU said it was his understanding that the question of the participation of members of the Committee in the consideration of the report of the country to which they belonged was to be examined by the Committee at its next session. In the matter under consideration, he noted that the two members of the Committee in question, namely, Mrs. Zou and Mrs. Sadiq Ali, had not participated in the discussion itself but had expressed the view that they could not associate themselves with all the Committee's conclusions concerning the reports of their respective countries. Satisfactory wording must be found to reflect that reservation.

65. Mr. SHERIFIS, speaking on a point of order, pointed out that paragraphs 19, 20 and 21 summarized discussions at the conclusion of which the Committee had been unable to reach a decision. He wondered whether it was really vital to mention that point in the Committee's report to the General Assembly. In his view what was important was to resolve the problem raised by the request made by two members of the Committee. Since the question of the participation of experts in the consideration of the report of the country to which they belonged was to be examined at the next meeting of the chairmen of human rights treaty bodies, the Committee could, in its next report to the General Assembly, record its discussions and the decision it would take in the light of the conclusions reached by the chairmen. That procedure would, in his view, be more reasonable.

66. The CHAIRMAN said it was the Committee's usual practice to provide the General Assembly with an account of discussions on the participation of members of the Committee in the examination of the reports of their respective countries. The problem which had arisen for the first time at the present session was due to the fact that two members who had not participated in the discussion of the report submitted by their country wished to dissociate themselves from all or part of the Committee's conclusions concerning the report of their country. In the circumstances, the Committee had a choice between two solutions: it could either mention the reservations entered by a certain member, referred to by name, in connection with a specific conclusion, or adopt a general text which did not mention the names of experts. It was his understanding that several members considered that the inclusion of reservations in respect of the Committee's conclusions might affect their integrity and create difficulties in future.

67. Mr. YUTZIS, speaking on a point of order, endorsed the views expressed by Mr. Sherifis. The Committee must find a way of referring to the reservations entered by Mrs. Zou and Mrs. Sadiq Ali without becoming bogged down in confused explanations concerning, among other things, the freedom of experts. Members of the Committee should seek appropriate wording, but he had none to offer.

68. Mr. GARVALOV, speaking on a point of order, said that the Committee should above all determine the wishes of the two members concerned, namely, Mrs. Zou and Mrs. Sadiq Ali - whether they wanted their views included in the Committee's report to the General Assembly or in the summary records of its meetings. If it failed to do so, adoption of paragraph 20 would be tantamount to imposing a solution on those two members.

69. Mr. FERRERO COSTA, speaking on a point of order, said it appeared that Mr. Garvalov had taken the floor not on a point of order but to express a point of view.

70. Mr. RECHETOV agreed.

71. He pointed out that the problem would not arise if experts were allowed to participate in the Committee's consideration of the report of their country by presenting their arguments and the facts in their possession. To prevent their participation would be contrary to the Convention and would result in the completely artificial creation of difficulties. Draft paragraphs 19 and 20 were not, in his view, very useful, but if they were retained it should be realized that experts would have to refrain from participating not only in the consideration of the report of the country to which they belonged. The interests of the country to which they belonged might also be at stake during the consideration of the report of another country.

72. Mrs. ZOU said that she was rather at a loss. The impression given by the second sentence of paragraph 19 of the draft report was that members who had not participated in the discussion of the situation in their country had done so because they had not wished to. Yet that was certainly not the case. The following sentence stated that members of the Committee considered that experts should participate in the discussion of any report under consideration so that they could make their expertise available to their colleagues. Had

she known that, she would have participated in the consideration of the report of her country, particularly as many of the observations made during the discussion did not correspond to the facts. Moreover, in the first sentence of paragraph 20, the two members of the Committee who had not participated in the discussion of the report of their country were targeted for having complicated the discussions. She apologised for having caused any inconvenience to her colleagues, since that had not been her intention. Her only wish was that the report should indicate that she had entered reservations in respect of certain aspects of the conclusions concerning her country and that her name should be mentioned.

73. Mrs. SADIQ ALI, said that she too had noticed that the text contained the contradictions to which Mrs. Zou had drawn attention and also requested that her name should be mentioned in the Committee s report together with her reservations. She would prefer to dissociate herself from the conclusions concerning India which were not sufficiently objective and contained a large number of inaccuracies.

74. Mr. WOLFRUM said it was quite understandable why Mrs. Zou and Mrs. Sadiq Ali wished to dissociate themselves from the Committee's conclusions and had requested that their names as well as their reservations should be mentioned in the report. If the document submitted expressed the opinion of the Committee, he too would dissociate himself from it. On joining in the Committee six years previously it had been his understanding that, for reasons of principle, experts should not participate in the consideration of the report of their country. He had therefore invariably refrained from participating in the discussion of the report of Germany. Since he did not share Mr. Rechetov's interpretation of the notion of "impartiality", he proposed that the matter should be discussed in depth at the following session and that the discussions should be reflected in the summary records. Two important considerations militated against the participation of experts in the consideration of the reports of their country. The first was that the Committee consisted of only 18 experts and the fact of allowing them to express their views during the consideration of the report of their country would be unfair to most of the States parties to the Convention which were not represented in the Committee. Secondly, there was the important question of the capacity in which members of the Committee took the floor. Was it as experts or as representatives of member States? Some of them argued that, by participating in the consideration of the report of their country, they were facilitating the Committee's work by drawing attention to certain facts which would otherwise have escaped notice. As lawyers, the members of the Committee present knew that facts were relative, that each one interpreted them in his own way, and that rare indeed were experts who could offer a critical assessment of the situation in their country. To his knowledge, the only exception to the rule was a Swedish expert. For that reason, the Committee should give thought to the possibility of establishing a rule applicable to all at the next session, but make sure that it was not too rigid.

75. As for the text itself, he agreed with Mrs. Zou and Mrs. Sadiq Ali that it lacked balance. Specifically, he was unable to go along with the first sentence of paragraph 20 in which two members of the Committee were indirectly reproached with having entered reservations. Since they had not participated

in the discussion of the report of the State of which they were nationals, Mrs. Zou and Mrs. Sadiq Ali were perfectly entitled, as experts, to express their views on the Committee's conclusions.

76. Mr. SHAHI said that, out of respect for the view of Mrs. Sadiq Ali and Mrs. Zou, their reservations should be mentioned in the body of the Committee's report or in a footnote. Since the position of experts whose State was severely criticized by the Committee could hardly be said to be enviable, it would be better that members of the Committee should not participate in the consideration of the report concerning their country. Since the problem was one common to many Committees, the chairmen of treaty bodies could meet in order to find a solution. In any event, the proposal that a rule should be established was well advised.

77. Mr. de GOUTTES said that the point under discussion was extremely important since the Committee's credibility depended on the solution adopted. Contrary to what had been stated by Mr. Rechetov, the principle of non-participation should be applied if the Committee was not to encounter a large number of difficulties. That would shield experts from pressure by their Governments and the temptation to go too far in defending their country, and also enable the Committee to preserve its credibility. It must be said, however, that in most cases experts participated in the consideration of the report of the State of which they were nationals not in order to express criticism but to defend their Government. Since impartiality was a factor that was too important to be left to the subjective appreciation of each expert, it would be well to establish a rule in the matter. That was, in fact, what had been done by certain working groups of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities. As for the text itself, as some of its paragraphs might create difficulties for experts, each one should be given the opportunity of entering reservations either in the body of the report or in a footnote. In that case, paragraph 20 should be deleted and the following added after the second sentence of paragraph 19: "They consider that this attitude is the most appropriate means of preserving the independence of the expert, in accordance with article 8, paragraph 1, of the Convention and Recommendation No. 9 of 1990."

78. Mr. FERRERO COSTA said that on principle he opposed the participation of experts in the consideration of the reports of States of which they were nationals for the reasons already given by several members of the Committee, and specifically by Mr. Wolfrum. So long as a rule had not been adopted, the opinion of experts who believed that they should participate in the discussion in order to correct certain inaccuracies or express their disagreement with certain conclusions should be respected. And for their part they should not overlook the fact that the Committee was not a court that handed down decisions against which there was no appeal. Yet the inclusion of divergent opinions in the text of the Committee's report or in a footnote would constitute a dangerous precedent. In the event of disagreement, it would be better to reflect divergent views in the summary record of the meeting.

79. The objections raised to paragraphs 19 to 21 of the draft report were quite justified, particularly in connection with the second sentence of paragraph 19 which wrongly suggested that most members of the Committee participated in the consideration of the report of the State of which they were nationals.

80. In conclusion, he said that the adoption of a rule in the matter would provide better protection not only for the Committee, whose credibility was at stake, but also for the experts.

81. The CHAIRMAN said that, in view of the objections expressed by members of the Committee, paragraph 20 should be deleted and only the first sentence of paragraph 19 retained.

82. Mr. YUTZIS noted that, since the case of the Swedish expert mentioned by Mr. Wolfrum was an exception, he agreed with most members that it was vital for the Committee to draw up rules on the subject at its next session.

83. Mr. AHMADU pointed out that, apart from the case mentioned by Mr. Wolfrum, there was also that of Mr. Bachir, a Sudanese expert who had lost his passport, his freedom, his membership in the Committee and even his life for having criticized the policy of his country.

84. Mr. CHIGOVERA (Rapporteur) noted that that question of principle had already been raised at the previous session. Since the Committee apparently agreed that the discussion should be resumed at its next session, he proposed that paragraphs 19 to 21 should be replaced by a succinct text reading as follows:

> "In accordance with article 8.1 of the Convention and in line with the general practice of the Committee, members of the Committee [the following members of the Committee] did not participate in the discussion during the consideration of the report of their own country."

85. On becoming a member of the Committee it had been his understanding that, as a matter of principle, experts did not take part in the discussion of the report of their country. In his view, and as a lawyer, that principle was obvious and he had observed that it was respected by the Committee in its work.

86. Mr. RECHETOV supported Mr. Wolfrum's proposal to amend the second sentence of paragraph 19.

87. Mr. VALENCIA RODRIGUEZ noted that the Committee's practice revealed that experts refrained from participating in the discussion of the report of their country in order to protect their individual independence and the impartiality of the Committee as a whole. Yet nothing prevented experts from taking part in the discussion if those two principles of independence and impartiality were not called in question, and it was for them to decide whether to do so or not. The fact that a certain expert had preferred not to participate in the discussion could be reflected in the summary records, but the Committee should neither draw attention to the attitude of "certain" of its members nor impose

anything on others. If the Committee's practice in the matter was to be reflected correctly, the first sentence of paragraph 19 should be followed directly by the text proposed in paragraph 21.

88. Mr. LECHUGA HEVIA supported Mr. Valencia Rodriguez's proposal.

89. Mr. SHERIFIS failed to see how reference to the reservations entered by Mrs. Zou and Mrs. Sadiq Ali could compromise the integrity of the Committee's report to the General Assembly. In his own country, Cyprus, the Supreme Court, for example, could reach decisions by a simple majority. He therefore proposed that paragraphs 19 to 21 should be replaced by the following:

> "At its 1153rd, 1179th and 1183rd meetings the Committee discussed the issue of the participation of Committee members in the debate on the periodic report of the State of which they are nationals. The Committee decided to resume consideration of this issue at its next session."

90. He also proposed that the question should be included in the agenda of the Committee's fiftieth session.

91. The CHAIRMAN said it was also difficult to know what decision would be taken at the seventh meeting of the chairmen of international human rights treaty bodies.

92. Mr. DIACONU said that the question of the participation of experts in the discussion of the report of their countries was a non-issue which arose only very rarely in practice. Indeed, during the five years in which he had participated in the Committee's work he had never once heard them take the floor. Mr. Chigovera's reasoning would also raise the question of the independence of experts in relation to countries adjacent to their country of origin, the great Powers or even the regional bodies of which their country was a member. In his view, each expert was responsible for his actions and his impartiality. As for the idea of taking a vote, he wondered who would heed its results.

93. Mr. RECHETOV said that he supported Mr. Sherifis's proposal, which appeared well advised from the procedural point of view.

94. The CHAIRMAN suggested that the position expressed by Mrs. Zou and Mrs. Sadiq Ali during the consideration of the reports of their respective countries could be reflected in the summary records. However, certain experts would prefer the inclusion of a footnote referring to that point in the Committee's report to the General Assembly. Since the other sections of document CRP.1 would not be available until the following day, he said that the Committee would revert to the matter at its last meeting.

Document CERD/C/49/Misc.34 (draft declaration concerning Cyprus) (document distributed at the meeting in English only)

95. Document CERD/C/49/Misc.34 was adopted.

Document CERD/C/49/Misc.35/Rev.1 (draft decision concerning Liberia) (document distributed at the meeting in English only)

96. Mr. WOLFRUM (Rapporteur for Liberia) said that, initially, he had considered it sufficient to reflect the discussion of the situation in Liberia in the Committee's report. Subsequently, however, it had appeared that a draft decision was necessary. He therefore proposed that the Committee should adopt the draft text which, since the Abuja Agreement was being implemented, seemed adequate.

97. Mr. SHERIFIS said that he supported the draft decision wholeheartedly since it was both positive and useful.

98. Mr. AHMADU proposed that the second operative paragraph should be rearranged in the interest of consistency. The first sentence of that paragraph should run on to include the first subparagraph and the last two subparagraphs should become separate operative paragraphs.

99. Document CERD/C/49/Misc.35/Rev.1, as amended, was adopted.

Document CERD/C/49/CRP.1/Add.4 - Chapter III: Methods of work of the Committee under article 9 of the Convention: Overview of present methods of work (document distributed in English only)

100. Mr. CHIGOVERA (Rapporteur) said that the word "requests" in paragraph 2 should be replaced by "requires", and the word "contain" should be inserted between "would" and "the following" in paragraph 4, line 7.

101. Mr. GARVALOV proposed the amendment of the beginning of paragraph 4 which, as it stood, described the Committee as a United Nations body just like the Commission on Human Rights or the Sub-Commission. However, the Committee was not a United Nations body but a body responsible for monitoring the application of a convention.

102. Mr. FERRERO COSTA proposed that the beginning of paragraph 4 should be amended to read: "Although the Committee was the first human rights treaty body within the United Nations system, ...".

103. Document CERD/C/49/CRP.1/Add.4, as amended, was adopted.

Document CERD/C/49/Misc.17/Rev.1 - General Recommendation concerning Indigenous Peoples (distributed in English only at the meeting)

104. Mr WOLFRUM said that, following Mr. Aboul-Nasr's suggestion, he was submitting the draft general recommendation in the framework of the International Decade of the World's Indigenous People. The proposed text contained elements that had already been discussed at length by the Committee. However, the last operative paragraph was new in the sense that it referred to the right of indigenous peoples deprived of their traditional land, territories or resources to just and fair compensation, if possible in the form of land and territories. He noted that the magnitude of the problem had been realized during the consideration of the reports of certain States parties, such as that of Brazil.

105. Mr. CHIGOVERA (Rapporteur) said he was not against the principle of that general recommendation. However, it was rather like putting the cart before the horse if draft recommendations were drawn up before the question had been considered.

106. Mr. SHERIFIS said that, although Mr. Chigovera's point was well taken, he wished to thank Mr. Wolfrum for preparing an interesting text that deserved careful consideration.

107. Mr. FERRERO COSTA noted that nothing prevented members from submitting draft general recommendations on subjects they considered to be important.

108. Mr. de GOUTTES noted that, among the various sources of information available to the Committee, the Anti-Racism Information Service (ARIS) could make a particularly useful contribution.

The meeting rose at 6.05 p.m.